THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2262 of 2006

ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the respondents in changing the alignment of Telugu Ganga Branch Channel from its original alignment shown as AB in the rough sketch is detrimental to the interest of the petitioner and consequently direct the respondents not to dig the proposed realigned channel shown as CDE in the rough sketch.

It is the case of the petitioners that the first petitioner is the owner of Ac.10-21 cents of land in Sy.Nos.15/2p, 16/1p, 17/1p, 25/2p, 321/3p, 322/p, 24/1p, 226/2p, 27/2p, 27/A.P, 27/B.P, 321/2.P, 321/1.P, 178/B and 180/A situated at Vedicherla village, Gudur mandal, Nellore district. Similarly, second petitioner is the owner of Ac.33.52 cents of land in Sy.Nos.8, 9 and 316 and third petitioner is the owner of Ac.36.91 cents in Sy.Nos.2;4-1;4-2;5 and 6 situated at Vedicherla village, Gudur mandal, Nellore district. The channel of Telugu Ganga Project was proposed to pass through the petitioners lands in Sy.Nos.2, 5, 8, 9, 45 and 44 from South to North with a width of 40' and survey was conducted and proposed channel was also peg marked, which is shown as 'AB' in the rough sketch. To the East of the petitioners lands, at some distance, there is a tank called 'konda gunta' tank and a channel was proposed to branch off from this 'AB' marked channel on the northern side of the petitioners lands. Though this channel passes through the garden in Sy.No.9, 44 and 45, petitioners have not objected to the same, as the damage to the garden was less. However, on 27.6.2005 the staff of the Superintending Engineer, Somasila Dam have proposed the canal at a different place and peg

marked it. This proposed canal is shown as CDE in the rough sketch, which takes a west ward turn from 'AB' canal in Sy.No.8 at point 'C' and passes through Sy.Nos.10, 11, 16, 322, 15 and 35. On enquiries, it was learnt that the proposed change of alignment of channel is not in any manner benefit the department and on the other hand, it requires more private land and lot of trees will be damaged incurring huge amount for the lands and trees. Therefore, petitioners made a representation dated 27.6.2005 requesting the authorities not to change the alignment of the channel and proceed with the initial proposed AB channel. However, on 2.1.2006, 20.1.2006 and 2.2.2006 several persons visited the lands of petitioners and without any intimation, entered the garden and took measurements. On enquiries, it revealed that that the channel will be dug as per the revised alignment 'ACDE'. Hence, the writ petition.

A detailed counter affidavit has been filed by the respondents stating that as on the date of representation made by the petitioners on 27.6.2005, the alignment was not fixed. The staff and surveyors deputed by the land acquisition authorities have surveyed the alignment of the canal except in the land of the petitioners as they were prevented from taking measurements. Further, after the process of land acquisition, the land will be duly compensated as per Land Acquisition Act and excavation of canal will be taken up only after acquisition of land or with the consent of the landowners.

Heard both sides and *perused* the material made available on record

From the averments made in the counter itself indicates that as of now, no efforts have been made by the respondents for taking up land acquisition proceedings in respect of the petitioners lands, which would be affected by realignment of the canal. Therefore, the

respondents are directed either to invoke land acquisition proceedings in respect of the petitioners lands by giving opportunity to them to participate in the 5A enquiry, or to acquire the lands with their consent, but not otherwise. Till such exercise is completed as per law, the respondents shall not dig or cause any damage to the lands of the petitioners.

With the above direction, the writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU,
J

Date: 23.6.2006

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IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2262 of 2006

Dated: 23rd June, 2006

Between:

Ambati Pulla Reddy & others.

.. Petitioners

and

The District Collector,
Nellore, Nellore district & others.

.. Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2262 of 2006

23.6.2006